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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/714,072	11/16/2000	Michael J. Rieschl	RA 5323 (33012/295/101)	5429
27516	7590	12/27/2005	EXAMINER	
UNISYS CORPORATION			VU, NGOC K	
MS 4773			ART UNIT	
PO BOX 64942			PAPER NUMBER	
ST. PAUL, MN 55164-0942			2611	

DATE MAILED: 12/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/714,072

Applicant(s)

RIESCHL ET AL.

Examiner

Ngoc K. Vu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 and 21-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6-10 and 21-25 is/are allowed.
- 6) ☒ Claim(s) 11-15 is/are rejected.
- 7) ☒ Claim(s) 1-5 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Response to Amendments***

1. Applicant's amendments filed 9/30/05 have been considered but are moot in view of the new ground(s) of rejection. The previous action is hereby vacated.

***Claim Objections***

2. Claim 1 is objected to because of the following informalities: it appears that the term "the improvement" refers to "the video on demand system". Please change the term "the improvement" into "the video on demand system". Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 11- 15 are rejected under 35 U.S.C. 102(e) as being anticipated by Taylor et al. (U.S. 6,233,607 B1).

Regarding claim 11, Taylor teaches a video on demand system (see abstract and figures 1-2) comprising:

storing means (disk drive 250) for temporarily storing a video program (see col. 2, lines 65-67);

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receiving means (110, 150) for receiving a user request for said video program and spooling said video program from long term storage (storage 130) into said storing means (see col. 2, lines 41-46; col. 3, lines 4-9 and 14-25);

plurality of streaming means (220) responsively coupled to said storing means for streaming said video program from said storing means to said receiving means (see col. 2, lines 61-64; col. 3, lines 14-18);

directing means (210) responsively coupled to said receiving means and said plurality of streaming means for directing one of said plurality of streaming means to stream said video program to said user in response to said request (see col. 1, lines 55-62; col. 2, lines 52-64).

Regarding claim 12, Taylor teaches that said directing means (210) further comprises means for selecting said one of said plurality of stream means having said video program resident (a data retrieval protocol in controller 210 checks whether the requested data is stored on the disk drives, and if the data is stored on a disk, the data is then is retrieved – see col. 4, lines 60-63).

Regarding claim 13, Taylor teaches that said directing means (210) further comprises means for selecting said one of said plurality of stream means having sufficient free storage to store said video program (see col. 3, lines 39-43; col. 4, lines 4-22 and 27-30).

Regarding claim 14, Taylor teaches that said directing means further comprises means for identifying said one of said plurality of streaming means having a previous video program which may be remove to accommodate said video program (remove an interactive data item, i.e., least frequently requested or used – see col. 4, lines 36-50).

Regarding claim 15, Taylor teaches that directing means further comprises means for determining that said one of said plurality of streaming means has sufficient capacity (i.e., lightest load) for streaming said video program (see col. 5, lines 46-50).

***Allowable Subject Matter***

5. Claims 1-5 would be allowable if rewritten to overcome the objection(s) set forth in this Office action.

6. Claims 6-10 and 21-25 are allowed.

7. The following is a statement of reasons for the indication of allowable subject matter: the prior art does not teach or fairly suggest the limitations of "a multimedia application server having a dedicated hardware and software subsystem responsively couple to said temporary memory which receives said video program request from said user, spools said video program into said temporary memory, and selects one of said plurality of video servers to stream said video program to said user from said temporary memory" as recited in claim 6 and similarly recited in claim 21.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ngoc K. Vu whose telephone number is 571-272-7306. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on 571-272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Ngoc K. Vu', with a long horizontal flourish extending to the right.

Ngoc K. Vu  
Primary Examiner  
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December 19, 2005